

Senate Bill 304

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires county to pay attorney fees and expenses allowed in property tax proceeding involving locally assessed property.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to costs allowed in property tax proceedings; creating new provisions; amending ORS
3 305.490 and 305.790; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 305.490 is amended to read:

6 305.490. (1) Plaintiffs or petitioners filing a complaint or petition in the tax court shall pay a
7 filing fee at the time of filing for each complaint or petition as follows:

8 (a) For a complaint or petition in the magistrate division, \$25.

9 (b) For a complaint or petition in the regular division, \$50.

10 (c) If a complaint or petition is specially designated under ORS 305.501 for hearing in the reg-
11 ular division, a fee of \$50.

12 (2) Neither the State of Oregon, nor any county, school district, municipal corporation or other
13 public corporation therein, nor any officer of any such public political division or corporation, ap-
14 pearing in the representative capacity of the officer of any public political division or corporation,
15 shall be required to pay the fee prescribed under this section. The party entitled to costs and dis-
16 bursements on such appeal shall recover from the opponent of the party the amount so paid upon
17 order of the court, as in equity suits in the circuit court.

18 (3)(a) If, in any proceeding before the tax court judge involving taxes upon or measured by net
19 income in which an individual taxpayer is a party, or involving inheritance taxes, the court grants
20 a refund claimed by the executor or taxpayer or denies in part or wholly an additional assessment
21 of taxes claimed by the Department of Revenue to be due from the estate or taxpayer, the court
22 may allow the taxpayer, in addition to costs and disbursements, the following:

23 (A) Reasonable attorney fees for the proceeding under this subsection and for the prior pro-
24 ceeding in the matter, if any, before the magistrate; and

25 (B) Reasonable expenses as determined by the court. Expenses include accountant fees and fees
26 of other experts incurred by the executor or individual taxpayer in preparing for and conducting the
27 proceeding before the tax court judge and the prior proceeding in the matter, if any, before the
28 magistrate.

29 (b) Payment of attorney fees or reasonable expenses under this subsection shall be made by the
30 Department of Revenue in the manner provided by ORS 305.790.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (4)(a) If, in any proceeding before the tax court judge involving ad valorem property taxation,
2 exemptions, special assessments or omitted property, the court finds in favor of the taxpayer, the
3 court may allow the taxpayer, in addition to costs and disbursements, the following:

4 (A) Reasonable attorney fees for the proceeding under this subsection and for the prior pro-
5 ceeding in the matter, if any, before the magistrate; and

6 (B) Reasonable expenses as determined by the court. Expenses include fees of experts incurred
7 by the individual taxpayer in preparing for and conducting the proceeding before the tax court judge
8 and the prior proceeding in the matter, if any, before the magistrate.

9 (b)(A) **Except as provided in subparagraph (B) of this paragraph, payment of attorney fees**
10 **or reasonable expenses under this subsection shall be made by the county in which the**
11 **property that is the subject of the proceeding is located from the unsegregated tax col-**
12 **lections account described in ORS 311.385.**

13 (B) **In a proceeding involving property that is assessed pursuant to ORS 308.505 to 308.665**
14 **or appraised pursuant to ORS 306.126,** payment of attorney fees or reasonable expenses under this
15 subsection shall be made by the Department of Revenue in the manner provided by ORS 305.790.

16 (5) All fees and other moneys received or collected by the clerk by virtue of the office of the
17 clerk shall be paid over to the State Treasurer and shall be held by the clerk in the General Fund
18 as miscellaneous receipts.

19 **SECTION 2.** ORS 305.790 is amended to read:

20 305.790. Payment of [any] attorney fees or reasonable expenses under ORS 305.447 or 305.490
21 [shall] **that is required to** be made by the Department of Revenue **shall be made** in the manner
22 provided by law for the payment of income tax refunds.

23 **SECTION 3.** **The amendments to ORS 305.490 and 305.790 by sections 1 and 2 of this 2011**
24 **Act apply to awards of attorney fees and expenses that become final on or after the effective**
25 **date of this 2011 Act.**

26 **SECTION 4.** **This 2011 Act takes effect on the 91st day after the date on which the 2011**
27 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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